

APPEALS — Decision of Court of Appeals binds the superior court even though the mandate has not issued and/or a petition for review is pending — Revised 11/2009

As soon as the Court of Appeals publishes an opinion, the judges of the superior court must follow that opinion. “The superior court is bound by decisions of the court of appeals; its precedents furnish a proper guide to that court in making its decisions.” *Francis v. Arizona Department of Transportation*, 192 Ariz. 269, 271, 963 P.2d 1092, 1094 (App. 1998). In *Francis*, the trial judge issued a ruling involving the construction of a particular statute. The State filed a motion for reconsideration, noting that a recent Court of Appeals opinion construed the statute in question differently. The trial court refused to follow the Court of Appeals decision. On appeal, the Court of Appeals found that the judge was “clearly wrong in refusing to follow this court’s decision.” *Id.* The Court said:

The fact that a petition for review was pending before our supreme court at the time of the motion for reconsideration does not diminish [the new case’s] significance as precedent. As to the trial court, [the new case] became binding precedent when it was published. It remains so until this court, in a published opinion, refuses to follow it or it is vacated by our supreme court. Whether [the new case] is to be disaffirmed is not a question for the superior court. A lower court cannot refuse to follow the rulings of a higher court. This would bring about a deadly conflict between the jurisdiction and power of the appellate courts and the superior courts of this state. Any other rule would lead to chaos in our judicial system.

Id. [citations and internal quotation marks omitted].